

PLANNING COMMISSION MINUTES

FEBRUARY 1, 2007

PUBLIC HEARING

NEW BUSINESS

DOCKET NO. 9-62-06V

***NOTE: This case was heard out of order. It was heard immediately following Docket No. 9-64-06.**

Change in zoning from R-4 Single Family Residential to R-7 Multi Family Residential, variances to allow a building to encroach into the required rear yard, to allow parking to encroach into the front and side yards, and to allow fire access to encroach into a rear yard, and waivers to allow encroachment into an LBA and to not provide LBAs between the church residual tract and proposed structures, on property located at 3701, 3702, 3705, 3707, 3709 and 3028 Hikes Lane containing 2.19 acres, and being in Louisville Metro.

Owner/Applicant: St. Michael's Eastern Orthodox Church
c/o Fr. Alexander
3701 St. Michael Church Drive
Louisville, KY

Attorney: William Bardenwerper
Bardenwerper, Talbott & Roberts PLLC
8311 Shelbyville Road
Louisville, KY 40222

Engineer/Designer: Hughes Architecture, Inc.
c/o Roger Hughes
7015 Poplar Terrace
PeeWee Valley, KY 40056

Existing Use: Church
Proposed Use: Senior Housing
Form District: Neighborhood
Council District: 11 – Kevin Kramer
Staff Case Manager: Beth Allen, Planning Supervisor

Notice of this public hearing appeared in **The Courier Journal** on January 23, 2007, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper Talbott & Roberts, 8311 Shelbyville Road, Louisville, KY 40222

Roger Hughes, Hughes Architecture, Inc., 7015 Poplar Terrace, PeeWee Valley, KY 40056

The following spoke in opposition:

No one spoke.

The following spoke neither for nor against:

No one spoke.

Agency Personnel:

Beth Allen, Planning Supervisor, Planning and Design Services

AGENCY TESTIMONY:

Beth Allen presented the case and showed a Power Point presentation showing maps and photos of the site and the surrounding area (see staff report for verbatim transcript, as well as details of the waiver and variance requests.) She mentioned that the applicant's intent is to integrate the housing with the church campus, rather than separating the two.

Commissioner Carlson asked Ms. Allen to define "pervious surface" roads. Ms. Allen did, and said that the fire chief for this district did not have a problem with this type of paving.

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SUMMARY OF TESTIMONY OF PROPONENTS:

Bill Bardenwerper, the applicant's representative, presented the applicant's case. He showed photos of the site and some of the existing buildings. He detailed the reasons for the requested variances.

Roger Hughes, architect, explained about the phasing of the project and why it was being planned that way. He detailed the walkways, the main entry, and connectivity. He showed elevations of the planned buildings. He said some animating features had been introduced into the back side of the buildings that face St. Barnabas.

Mr. Bardenwerper resumed the podium and said there seems to be no opposition at this hearing, nor was there any at neighborhood meetings.

Commissioner Howard asked about the color of the buildings. Mr. Hughes said the materials have been chosen, but the color has not been decided upon yet. Mr. Hughes said the applicant has been discussing that with church representatives. The color will be a close match to the existing buildings, but not an exact match. Commissioner Ernst asked Mr. Hughes if the applicant would be willing to agree to review their final color choices with staff. Mr. Bardenwerper said yes. There was some discussion about connectivity between buildings. Commissioner Carlson asked about the fire access road. Mr. Bardenwerper said the applicant has met with the Chief of the McMahon Fire Department and there seems to be no problem with the fire lane.

There was discussion about screening/buffering around the cemetery. Ms. Allen suggested that, as part of the applicant's Tree Canopy requirements, they could be required to provide landscaping along the cemetery line.

Commissioner Queenan asked that the landscaping around the Hike's home. Mr. Hughes said no present landscaping there will be touched.

SUMMARY OF TESTIMONY OF OPPONENTS:

No one spoke.

SUMMARY OF TESTIMONY OF INTERESTED PARTIES:

No one spoke.

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REBUTTAL:

There was no rebuttal since no one spoke in opposition.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the February 1, 2007 proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

Rezoning

On a motion by Commissioner Howard, the following resolution was adopted:

WHEREAS, based on testimony and evidence submitted with the application, in the Staff Report and to the Planning Commission at various meetings, including LD&T Committee meetings and the public hearing, the Commission finds that this rezoning will allow the congregation of St. Michael's Orthodox Church to construct and sell housing for the elderly on its campus on Hikes Lane; that the campus is surrounded by a blue-line stream to the south, St. Barnabus' campus to the east, Hikes Lane (single family on the north side) and apartments to the west; that the housing proposed will be at the southeast corner of the St. Michael's campus and will be available only to people 55 or older; that the project will be financed in part by government subsidies in the form of tax credits; that, while ownership of the proposed units cannot be reserved for members of the church, it is anticipated that many will be sold to members; that the proposed buildings will be constructed of brick and other masonry materials that should fit in with the Orthodox-inspired architecture of the remainder of the campus; and

WHEREAS, the Commission finds that the application complies with the intent and policies of Guideline 1 of the Cornerstone 2020 Comprehensive Plan because the Neighborhood Form District allows for a mixture of densities and a mixture of uses and encourages symbiotic uses such as housing on church

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grounds as proposed; and because the development will utilize existing infrastructure, will develop an underdeveloped church campus that is close to essential services, including the Regional Center at Hikes Point, neighborhood serving commercial uses nearby and the large medical complex north of the site at Dupont; and

WHEREAS, the Commission finds that the application complies with the overall intent of and specifically with Policies 2, 4, 5, 7, 12, and 13 of Guideline 2 of the Cornerstone 2020 Comprehensive Plan because this proposal will create a true mixed-use campus for the church in a compact, infill design; because institutional uses are preferred in centers, and, when combined with the church campus to the east, the proposal further fills out a religious center for the Hikes Lane area; because the church will be the focal point of the overall campus; because parking will be shared by the living units and the church, reducing the needed number of spaces for the overall campus; and because it is likely that residents of the proposed units will be members of the church; and

WHEREAS, the Commission further finds that the application complies with the overall intent of and specifically with Policies 1, 2, 3, 5-13, and 21-23 of Guideline 3 of the Cornerstone 2020 Comprehensive Plan for all the reasons listed above and because the proposed buildings will be of a scale that will complement the remaining campus buildings, which range greatly in size and scale; because the proposed buildings will also be constructed of compatible building materials; because the mixture of residential and institutional use, especially considering the elderly restrictions on the proposed residences, should be beneficial for both the residents and the church; because the age of the anticipated residents and the location of the proposal near a TARC stop, will mean less traffic than that associated with a development that is designed to accommodate families; because this reduced traffic load should reduce the impacts of the proposal associated with automobile traffic: noise, odor, lighting and other visual impacts; because the proposal has been placed at least 100' from the blue-line stream to the south of the site as well, creating a large buffer between the proposed buildings and the single family residences to the south across the blue-line stream; because the proposed buildings will add to the mixture of housing types in the area, which contains a significant number of apartments and single family residences; and because the proposal will comply with all local, state and

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federal laws and regulations concerning accessibility for those with handicaps;
and

WHEREAS, the Commission further finds that the application complies with the intent and with Policies 1, 2, 3, 5, 6, 7, and 9 of Guideline 4 of the Cornerstone 2020 Comprehensive Plan for all the reasons described above and because it will provide for a link to a greenway if one is ever constructed in the area; because, located as it is on the St. Michael's campus, the proposal will have adequate access to open spaces on the site itself and on the larger campus; and because, locating the proposed buildings as far from the stream as proposed should also serve to preserve the stream corridor, one that has been severely encroached upon and relocated through the years; and

WHEREAS, the Commission further finds that the application complies with the overall intent and specifically with Policies 1-4 and 7 of Guideline 5 for all the reasons described above and because the proposed buildings surround the old Hikes house, which has been part of the church campus for over 40 years; because the proposal is near a cemetery, which will be protected with the required buffer, even though only the buffer, not the cemetery is located on the campus; and because the applicant will conduct an archeological study on the site to ensure that construction of the proposed buildings will not destroy any artifacts; and

WHEREAS, the Commission further finds that the application complies with the overall intent and specifically with Policies 2, 3, 6, 9, 10, 13 and 16 of Guideline 7 for all the reasons described above and because the proposal includes dedicating required right of way to the public and a link to a TARC stop on Hikes Lane; because the proposal meets LDC requirements for parking; and because the proposal will be linked to surrounding land uses and area parks through the use of a greenway at such time as the greenway is constructed; and

WHEREAS, the Commission further finds that the application complies with the overall intent and specifically with Policies 1 and 2 of Guideline 9 for all the reasons described above and because the proposed development plan will allow seniors, many of them members of the church, to live in a campus-like setting near areas services; because the applicant is proposing sidewalks throughout the site that will connect to the public sidewalk system on Hikes Lane, including

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an area for a bus stop as well; and because these measures should encourage residents to walk and ride the bus for many of their trips from the site; and

WHEREAS, the Commission further finds that the application complies with the overall intent of Guidelines 10, 11 and 12 of the Cornerstone 2020 Comprehensive Plan and specifically with Policies 2, 3, 5, 7, 11 and 12 of Guideline 10; Policies 2, 3, 4 and 9 of Guideline 11; and Policies 1, 3, 7 and 8 of Guideline 12 for reasons evident on the accompanying district development plan and because the proposed senior housing development is in an urbanized area, where adequate drainage facilities exist to handle the increase in runoff from the proposed development; because the applicant is not encroaching on the 100 year floodplain at the southern end of the site, but is instead maintaining significant open space between the proposed buildings and the stream to the south of the site; because these design measures will also ensure that water going into the creek is not coming directly from a parking surface, but is filtered prior to the entering the stream; and because the applicant will follow the requirements of all laws concerning sedimentation and erosion control to further ensure no damage to this urban stream; because, with regard to air quality, the proposed elderly housing facility is an infill development in an area served by public transit and adequate sidewalks; because the site is also close to existing services and stores for the residents' daily needs; and because the applicant has designed the site to encourage walking and transit use, two forms of transportation that have less of an effect on the environment than individual automobiles; and

WHEREAS, the Commission further finds that the application complies with the overall intent of and specifically with Policies 4 and 5 of Guideline 13 of the Cornerstone 2020 because the St. Michael's campus is an urban church campus with a large amount of open space and landscaping; because the proposed development will become a part of the campus, with many of the residents being members of the church; because the development parcels, though divided for financing purposes, are on the same campus, and the Commission believes that the overall development site meets the intent of this Guideline; and because the applicant is seeking specific waivers where property lines must be drawn for financing purposes, but will provide landscaping material elsewhere in the site as needed; and

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WHEREAS, The Commission finds that the proposal has received preliminary approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Department of Public Works, and the Metropolitan Sewer District; and

WHEREAS, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning **from R-4 Single Family Residential to R-7 Multi-family Residential** on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Ernst, Carlson, Storm, Wells-Hatfield, Abstain, Queenan, Blake, Hamilton, and Howard.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.

Development Plan

On a motion by Commissioner Howard, the following resolution was adopted:

RESOLVED, That the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following binding elements:

Proposed Binding Elements

1. The development shall be in accordance with the approved District Development Plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning

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Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The density of the development shall not exceed 23 dwelling units per acre for Lot 1 (16 units on .696 acres) and 32.88 dwelling units per acre for Lot 2 (22 units on .669).
3. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. *Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).*
 - b. *Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).*
 - c. *Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.*
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance permit) is requested:
 - b. The development plan must receive full construction approval from *Louisville Metro Department of Inspections, Permits and Licenses and the Metropolitan Sewer District.*
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan and dedicating additional right-of-way to Hikes Lane. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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- e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the proposed lots/owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- 5. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
- 6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
- 7. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
- 8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties

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engaged in development of the site, shall be responsible for compliance with these binding elements.

9. The address number(s) shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
10. Trees will be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the LDC. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 1, 2007 Planning Commission meeting.
12. Prior to issuance of a building permit for the structure on Lot 2, the applicant shall bring elevations and renderings in compliance with the Multi-Residential Building Design Standards of the Land Development Code to a Land Development and Transportation Committee meeting for review and approval by said committee.
13. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
14. The emergency access drive required by the Fire Department at the rear of the building on Lot 1 shall be constructed of pervious paving materials that are acceptable to the Fire Department.
15. Part of the Tree Canopy shall be provided as cemetery buffer.

The vote was as follows:

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YES: Commissioners Ernst, Carlson, Storm, Wells-Hatfield, Abstain, Queenan, Blake, Hamilton, and Howard.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.

Waivers

On a motion by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Planning Commission finds that the applicant has requested a waiver of Section 10.2.4 which requires an A.2 buffer (10' LBA and 3 trees/100'; 6' screen) between the proposed multi-family lots and the residual lot containing the church facilities; and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because the adjacent property owner is the church (the applicant), and it is the applicant's concept to integrate the senior housing with the church campus rather than separate the two; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 because the development complies with all screening and buffering requirements against adjacent property owners on all other property perimeter lines; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because it will allow the proposed infill development to be constructed as part of the larger church campus and allow the housing and church facilities to be integrated with each other; and

WHEREAS, the Commission further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) because the applicant has made efforts with this proposal to retain existing plant

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material on the larger church property that will enhance the proposed housing structures and contribute to the overall appearance of the site; and

WHEREAS, the Commission further finds that the applicant has requested a waiver of Section 10.2.4.B to allow the emergency fire access road to encroach 10' into a portion of the required 15' LBA along the rear of Lot; and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because the encroachment of 10' only occurs for a distance of 50' along the east property line of 332 feet and there will still be 5 feet of room for providing required screening and buffering materials; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 because the development will still comply with the screening and buffering materials required along this property line; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the emergency fire access drive is mandated by the Fire Department to be in this particular location to meet public safety needs; and

WHEREAS, the Commission further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) because the applicant has agreed to construct the fire access drive out of pervious paving materials that are acceptable to the fire department; and

WHEREAS, The Commission finds that the requested waiver is in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of the A.2 buffer (10' LBA and 3 trees/100'; 6' screen) requirements between the proposed multi-family lots and the residual lot containing the church facilities; **AND** the Commission does hereby **APPROVE** the requested waiver to allow an emergency fire access road to encroach 10' into a portion of the required 15' LBA along the rear of Lot 1.

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The vote was as follows:

YES: Commissioners Ernst, Carlson, Storm, Wells-Hatfield, Abstain, Queenan, Blake, Hamilton, and Howard.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.

Variances

On a motion by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Commission finds that the applicant has requested variances from the requirements of Table 5.3.1 and Section 5.11.4 of the Land Development Code to permit: **1)** building on Lot 2 to encroach into rear 15' yard; **2)** parking to encroach into the front yard of Lot 1 and side yard of Lot 2 and **3)** to permit existing parking on residual R-4 tract to encroach into the five foot side yard; and also **4)** to allow the emergency fire access to encroach into the side yard of Lot 1; and

WHEREAS, the Commission further finds that the granting of the variances will not adversely affect the public health, safety or welfare because all of the variances are a result of the property lines proposed, which lines are drawn for purposes of creating parcels to mortgage for the construction of the proposed facilities; that the development of the property as proposed will allow for parking to be located between the proposed and existing buildings, toward the interior of the overall campus, protecting adjoining property owners from any detrimental affects having that parking on the exterior of the site might produce; that the emergency fire access between the proposed structure on Lot 1 and the St. Barnabus campus is for emergency purposes only and, therefore, will not be used on a regular basis; that the applicant is providing significant landscaping along this property line to mitigate any adverse impact that the presence of this (hopefully) rarely used pavement will cause; and

WHEREAS, the Commission further finds that Granting of the variances will not alter the essential character of the general vicinity for al the reasons described

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herein and because it will allow for the development of elderly housing on the church campus, where it will be among other larger institutional buildings, like the St. Barnabus campus next door; that the applicant has designed the site to provide parking in the interior of it, which will help maintain the streetscape along Hikes Lane; and that the applicant is providing emergency access as required and is providing significant landscaping between the emergency access and the St. Barnabus campus; and

WHEREAS, the Commission further finds that Granting of the variances will not cause a hazard or a nuisance to the public for all the reasons described herein and because it will allow for the proposed infill development to be developed as designed; that the design of this site has been a collaborative one, with input from both the applicant and Planning and Design Services staff; that the historic elements of the overall campus and adjacent properties have been protected, reducing design options for the placement of parking; and

WHEREAS, the Commission further finds that Granting of the variances will not allow an unreasonable circumvention of the requirements of the zoning regulations for all the reasons described herein; and

WHEREAS, the Commission further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity for all the reasons described herein and because the proposed elderly housing must be located on a lot separate from the existing church; that, while the applicant has designed the buildings and site to incorporate the proposed development into the exiting campus as much as possible, the property lines needed to separate the parcels create the variances requested; that this relatively unique set of circumstances is not shared by other area parcels. Because of the nature of the proposed structure, additional emergency access has been required by fire officials; that the applicant is unable to provide that emergency access anywhere else on the site, but is providing significant landscaping to mitigate any adverse impacts that the presence of the emergency access in that location may cause on the adjoining property; and

WHEREAS, the Commission further finds that The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship for all the reasons described

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herein and because the applicant would not be able to provide the proposed elderly housing on this campus or would have to gerrymander lots to include parking on the southern half of the campus; that, by designing the site as proposed, the applicant has kept the most intense portions of it up on Hikes Lane, away from the stream and residential areas to the south; that denying the requested variances would cause the applicant to have to break up the proposed parking areas and place them in the only remaining areas available, the southern end of the campus; and that, with regard to the emergency access on Lot 1, strict application of the provisions of the regulation would likely prevent the development of Lot 1 at all; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought for all the reasons described herein and because the applicant is required to divide the property in order to build the proposed elderly housing in the only manner it can, with required safety measures and with some subsidies; now, therefore be it

RESOLVED, that the variances are hereby **APPROVED**.

The variances allow:

1. The building on Lot 2 to encroach 7.60 feet into the 15' rear yard of Lot 2.
2. Parking to encroach 3 feet into the 3' side yard of Lot 2.
3. Parking to encroach 12.5 feet into the 15' front yard of Lot 1.
4. The fire access drive to encroach 10 feet into the 15' rear yard of Lot 1.
5. Parking to encroach 5 feet into the 5 foot side yard of the residual tract.

The vote was as follows:

YES: Commissioners Ernst, Carlson, Storm, Wells-Hatfield, Abstain, Queenan, Blake, Hamilton, and Howard.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.